

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Peter Englander (“Englander”) and Penn-Plax, Inc. (“Penn-Plax”), with Englander and Penn-Plax collectively referred to as the “Parties.” Englander is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Penn-Plax employs ten or more persons and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Englander alleges that Penn-Plax manufactures, distributes, imports, sells, and/or offers for sale in the State of California hand tool grips containing di(2-ethylhexyl)phthalate (“DEHP”) without the requisite Proposition 65 health hazard warnings. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause birth defects and other reproductive harm.

1.3 Product Description

The products that are covered by this Settlement Agreement are defined as hand tool grips containing DEHP including, but not limited to, the *Penn Plax Nail Trimmer, Cat. #: BA611 (#0 30172 01613 4)*, manufactured, distributed, imported, sold and/or offered for sale in California by Penn-Plax, hereinafter referred to as the “Products.”

1.4 Notice of Violation

On or about June 15, 2012, Englander served Penn-Plax and various public enforcement agencies with a “60-Day Notice of Violation” (“Notice”), alleging that Penn-Plax was in violation of Proposition 65 for failing to warn its customers and consumers in California that the Products exposed users to DEHP. To the best of the Parties’ knowledge, no public enforcer has

commenced and is diligently prosecuting the allegations set forth in the Notice.

1.5 No Admission

Penn-Plax denies the material, factual, and legal allegations contained in the Notice and maintains that all of the products it has manufactured, distributed, imported and/or sold in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Penn-Plax of any fact, finding, conclusion of law, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Penn-Plax of any fact, finding, conclusion of law, issue of law, or violation of law, such being specifically denied by Penn-Plax. This section shall not, however, diminish or otherwise affect Penn-Plax's obligations, responsibilities, and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean December 1, 2012.

2. INJUNCTIVE RELIEF: REFORMULATION

Commencing on the Effective Date and continuing thereafter, Penn-Plax shall only manufacture, distribute, ship, sell, or offer to ship for sale in California Products that are "Reformulated Products." For purposes of this Settlement Agreement, "Reformulated Products" shall mean Products that contain no more than 1,000 parts per million (0.1%) of DEHP when analyzed pursuant to EPA testing methodologies 3580A and 8270C, or equivalent methodologies utilized by state or federal agencies for the purpose of determining DEHP content in a solid substance.

3. MONETARY PAYMENTS

3.1 Payments Made Pursuant to Health & Safety Code § 25249.7(b)

Pursuant to Health & Safety Code § 25249.7(b), Penn-Plax shall pay \$7,000 in civil penalties. Penn-Plax shall pay an initial civil penalty of \$2,000 and a final civil penalty of \$5,000. However, the final civil penalty shall be waived in its entirety if an officer of Penn-Plax

provides Englander with a written certification that, as of November 1, 2012, and continuing on into the future, Penn-Plax has sold and will continue to sell and/or offer for sale in California only Reformulated Products as set out in Section 2 above. Englander must receive any such certification no later than February 15, 2013, and time is of the essence.

The initial civil penalty payment shall be due on or before December 15, 2012 and shall be allocated according to Health & Safety Code §§ 25249.12 (c)(1) & (d), with seventy-five percent (75%) of the penalty amount earmarked for the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining twenty-five percent (25%) of the penalty amount earmarked for Englander. Penn-Plax shall issue two separate checks for the payment: (a) one check made payable to “The Chanler Group in trust for OEHHA” in the amount of \$1,500; and (b) one check to “The Chanler Group in trust for Peter Englander” in the amount of \$500. Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O. Box 4010, Sacramento, CA, 95814 (EIN: 68-0284486); and (b) Peter Englander, whose information shall be provided two calendar days before the payment is due.

Payment shall be delivered to Englander’s counsel at the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

The final civil penalty payment, if not waived, shall be due on or before February 15, 2013, and shall be allocated according to Health & Safety Code §§ 25249.12 (c)(1) & (d), with seventy-five percent (75%) of the penalty amount earmarked for OEHHA and the remaining twenty-five percent (25%) of the penalty amount earmarked for Englander. Penn-Plax shall issue two separate checks for the payment: (a) one check made payable to “The Chanler Group in trust for OEHHA” in the amount of \$3,750; and (b) one check to “The Chanler Group in trust for Peter Englander” in the amount of \$1,250. Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O. Box 4010, Sacramento, CA, 95814 (EIN: 68-0284486); and (b) Peter Englander, whose information shall be provided five calendar days before the payment is

due.

Payment shall be delivered to Englander's counsel at the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

3.2 Reimbursement of Fees and Costs

The Parties reached an accord on the compensation due to Englander and his counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure § 1021.5 for all work performed in this matter. Under these legal principles, Penn-Plax shall pay \$24,000 for all fees and costs incurred investigating, bringing this matter to the attention of Penn-Plax, and negotiating a settlement in the public interest. Penn-Plax shall provide its payment in the form of a check payable to "The Chanler Group," issue a separate 1099 for fees and costs (EIN: 94-3171522), and deliver payment on or before December 15, 2012 at the payment address provided in Section 3.1.

4. RELEASES

4.1 Englander's Release of Penn-Plax

This Settlement Agreement is a full, final and binding resolution between Englander and Penn-Plax, of any violation of Proposition 65 that was or could have been asserted by Englander on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, against Penn-Plax, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Penn-Plax directly or indirectly distributes or sells Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees ("Releasees"), based on their failure to warn about alleged exposures to DEHP contained in the Products that were manufactured, distributed, sold, and/or offered for sale by Penn-Plax in California before the Effective Date.

In further consideration of the promises and agreements herein contained, Englander on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all Englander's rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that Englander may have, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses -- including, but not limited to, investigation fees, expert fees, and attorneys' fees, but exclusive of fees and costs on appeal -- limited to and arising under Proposition 65 with respect to DEHP in the Products manufactured, distributed, sold and/or offered for sale by Penn-Plax before the Effective Date (collectively "claims"), against Penn-Plax and Releasees.

4.2 Penn-Plax's Release of Englander

Penn-Plax on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Englander and his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Englander and his attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

5. POST-EXECUTION CONVERSION TO CONSENT JUDGMENT

Within twelve months of the execution of this Settlement Agreement, Penn-Plax may send Englander a written request to draft and file a complaint, to incorporate the terms of this Settlement Agreement into a proposed consent judgment that provides a release in the public interest for the released Products, and to seek court approval of the consent judgment pursuant to Health & Safety Code § 25249.7, or as may be otherwise allowed by law. If so requested, Englander and Penn-Plax agree to reasonably cooperate, and to use their best efforts and that of their counsel to support the entry of the terms of this Settlement Agreement as a consent judgment by a superior court in California in a timely manner.

If so requested by Penn-Plax in writing, pursuant to Code of Civil Procedure §§ 1021 and 1021.5, then Penn-Plax will reimburse Englander and his counsel for their reasonable fees and costs incurred drafting and filing the complaint, converting this Settlement Agreement into a proposed consent judgment, and seeking judicial approval of the settlement in an amount not to exceed \$12,000, exclusive fees and costs incurred on appeal, if any. Penn-Plax shall remit payment to The Chanler Group at the payment address provided in section 3.1 within five business days of receiving a monthly invoice from Englander's counsel for work performed under this section.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision is held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be sent by: (i) personal delivery; (ii) first-class, registered or certified mail, return receipt requested; or (iii) overnight courier on any party by the other party at the following addresses:

For Penn-Plax:

Ricky Goldman, Co-Chief Executive Officer
Penn-Plax, Inc.
35 Marcus Boulevard
Hauppauge, NY 11788

For Englander:

Proposition 65 Coordinator
The Chanler Group
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

With copy to:

John J. Allen
Allen Matkins
515 South Figueroa Street
9th Floor
Los Angeles, CA 90071

Any party may, from time to time, specify in writing to the other party a change of address to which all notices and other communications shall be sent.

9. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (".pdf") signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

10. POST-EXECUTION ACTIVITIES

Englander agrees to comply with the reporting form requirements referenced in Health & Safety Code § 25249.7, subdivision (f).

11. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties.

12. AUTHORIZATION

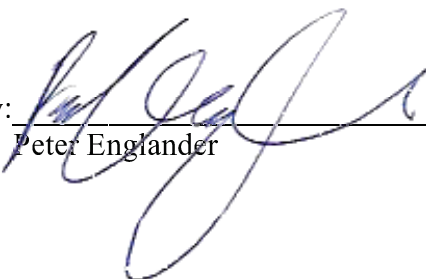
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: December 10, 2012

Date: _____

By:  _____
Peter Englander

By: _____
Ricky Goldman, Co-CEO
Penn-Plax, Inc.

With copy to:

John J. Allen
Allen Matkins
515 South Figueroa Street
9th Floor
Los Angeles, CA 90071

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The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

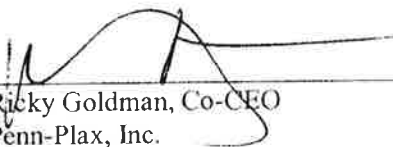
AGREED TO:

AGREED TO:

Date: _____

Date: Nov. 26, 2012

By: _____
Peter Englander

By: 
Ricky Goldman, Co-CEO
Penn-Plax, Inc.